



**TOWN OF TEWKSBURY  
CONSERVATION COMMISSION  
999 Whipple Road  
Tewksbury, MA 01876**

Stephen Deackoff, Chairman  
Anthony Ippolito, Vice-Chair  
Dennis Sheehan  
Carolina Linder

**MEETING MINUTES  
July 23, 2014**

The meeting was called to order by Steve Deackoff, Chairman at the Pike House (temporary town hall). Present was Dennis Sheehan and Carolina Linder. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Anthony Ippolito was not in attendance.

**Approval of Meeting Minutes – June 18, 2014**

**MOTION:** Mr. Sheehan made the motion to approve the June 18, 2014 meeting minutes; seconded by Ms. Linder and the motion carried 3-0.

**A) (Continued) Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP#305-966**

The applicant has requested to continue this matter to August 13, 2014.

**MOTION:** Mr. Sheehan made the motion to continue Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP#305-966 to August 13, 2014 at 7:02 p.m.; seconded by Ms. Linder and the motion carried 3-0.

**B) Enforcement Order, Artillo Dispersio, Jr., 1275 Shawsheen Street, Map 101, Lot 76**

Mr. Deackoff noted that this matter will be continued to August 13, 2014.

**MOTION:** Mr. Sheehan made the motion to continue Enforcement Order, Artillo Dispersio, Jr., 1275 Shawsheen Street, Map 101, Lot 76; seconded by Ms. Linder and the motion carried 3-0.

**C) Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4**

Present was Steven Ericksen of Norse Environmental Services. Mr. Ericksen provided the members with a copy of a plan of the site and explained that the homeowner's had taken up the lawn area and cut down some trees and, as a result, received an enforcement order. Since that time, the homeowner has stopped work and installed erosion controls. Mr. Ericksen explained that, at this point, the homeowner would like to hydro seed the remaining lawn area and they feel it would be prudent to put this work under the enforcement order. Mr. Ericksen noted that minimal grading was also done as well as the removal of a couple of trees without a filing.

Mr. Boyd noted that he visited the site and is somewhat impressed with how the homeowners have already begun to restore the area. The homeowners have put down some sod in the no disturb zone to stabilize the area and they have planted approximately 6 trees. Mr. Boyd recommended they continue with the planting of the trees throughout the buffer zone. Ms. Linder agreed with this.

Discussion took place on Mr. Boyd inspecting the area once it has been established. Mr. Deackoff suggested late September/October.

**MOTION: Mr. Sheehan made the motion to continue the Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4, to October 8, 2014; the tree planting shall continue through the duration of the 25 foot no disturb; seconded by Ms. Linder and the motion carried 3-0.**

**D) Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66**

Mr. Boyd explained that the enforcement order was issued approximately 2 months ago and he has been unable to reach Mr. Kowalchik. Mr. Boyd will make it a priority to reach Mr. Kowalchik prior to the next meeting. If Mr. Boyd is unable to reach Mr. Kowalchik, the matter will be referred to the DEP.

**MOTION: Mr. Sheehan made the motion to continue Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66 to August 13, 2014 at 7:04 p.m.; seconded by Ms. Linder and the motion carried 3-0.**

**E) (Continued) Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49**

Present was Patrick Walsh. Mr. Boyd suggested continuing this matter until after Item L on the agenda as a Certificate of Compliance is also being requested and should be issued first.

**MOTION:** Mr. Sheehan made the motion to table (Continued) Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49 until after item L of tonight's agenda; seconded by Ms. Linder and the motion carried 3-0.

**F) (Continued) Request for Determination, Kellie Mixon, 9 Marie Street, Map 57, Lot 103**

Present was Kellie Mixon of 9 Marie Street. Ms. Mixon is proposing to install a fence along her property line as well as raise the grade. Ms. Mixon has hired a wetland scientist and they have determined where the wetland lines are and they brought the fence in 25 feet from the wetlands.

Mr. Boyd noted that he visited the site and explained that there is a hill that in some ways serves as the 25 foot no disturb. The homeowner would like to fill this area and raise the grade.

Ms. Mixon explained that a landscaper will also be building a three foot retaining wall.

Ms. Linder expressed concerns with the retaining wall being right on the 25 foot buffer. Mr. Boyd suggested the wall be brought in 3 feet so that it is not right on the buffer zone. Ms. Linder asked how deep the "ditch" is. Mr. Boyd noted that approximately 50 yards of clean fill will be brought in to grade this area. Ms. Linder noted that she would also prefer to see the retaining wall brought in 3 additional feet. Mr. Boyd asked if any vegetation will be removed along the 25 foot buffer to install the wall and Ms. Mixon explained that there is one bush that is partly in the no disturb zone that they would like to remove.

**MOTION:** Mr. Sheehan made the motion for a Negative Determination, Kellie Mixon, 9 Marie Street, Map 57, Lot 103, Standard Order of Conditions, the retaining wall shall be brought in an additional 3 feet from the 25 foot no disturb for a total distance of 28 feet from the wetlands, no vegetation shall be removed from the wetland side; seconded by Ms. Linder and the motion carried 3-0.

**G) Enforcement Order, Donald McLaren, 434 Main Street, Map 22, Lot 69**

Present was Steven Ericksen of Norse Environmental Services, Dick Cuoco of Woodland Design, Donald McLaren, and Don McLaren. Mr. Ericksen provided the members with a copy of a plan of the site and explained that they had flagged a small area of wetlands at the Motel Caswell site. The wetland was a 354 square foot area of isolated wetland and is not jurisdictional under the Wetland Protection Act. Mr. Ericksen noted that they also believe that it is not jurisdictional under the local bylaw. Mr. Ericksen provided the members with a handout regarding jurisdictions and read it aloud (a copy of the handout can be found with the Conservation Agent). Mr. Ericksen noted that the area is not a vernal pool and was dry in May when they flagged the area which means it does not hold

water for at least 6 months out of the year. Mr. Cuoco was brought in to determine whether or not this would be isolated land subject to flooding. Mr. Ericksen reviewed the requirements for isolated land subject to flooding and noted that they have determined that this does not apply to this area. Mr. Ericksen explained that the small area was dug out in the past in order to collect runoff from the adjacent greenhouse property.

Mr. Deackoff asked if it is manmade storm water management and Mr. Ericksen confirmed this. Mr. Deackoff explained that the main concern is that the storm water from the proposed project is properly handled. Mr. Ericksen explained that they will be proposing a design that will also handle the additional water coming from the greenhouse property. Mr. Cuoco has spoken to the owners of the greenhouse about this. Mr. Deackoff asked if the area was connected to any other wetlands and Mr. Ericksen explained that it is not.

Mr. Cuoco explained that they intend to install some type of BMP on the greenhouse site prior to entering onto their site.

Mr. Boyd explained that this matter was brought to his attention when he received a few telephone complaints. As a result, Mr. Boyd went out to the site and based on the area where the fill was being stored, he could not tell what the depth was. As a result, an enforcement order was issued to stop the work to allow time for the town to review the matter. Mr. Boyd requested the town be notified ahead of time when things such as this arise in the future.

Ms. Linder asked when the survey was done on the volume of the water. Mr. Erickson explained that it was done in June. Mr. Boyd noted that he also had the town engineer review this and it appears in order to him.

Mr. Sheehan noted that he visited the site and it was actually quite dry.

**MOTION: Mr. Sheehan made the motion to lift the Enforcement Order, Donald McLaren, 434 Main Street, Map 22, Lot 69; seconded by Ms. Linder and the motion carried 3-0.**

**H) Enforcement Order, Erika Algaier, 355 Marston Street, Map 20, Lot 27**

Present was Steven Ericksen of Norse Environmental Services, Erika Algaier, and Joe Dougherty. Mr. Ericksen explained that the homeowners recently purchased this home and went in to redo the lawn area and were preparing to seed the area when the enforcement order was issued for work within the buffer zone. Mr. Ericksen was contacted to flag the wetland area and noted that erosion controls have been installed and are in place. The hydroseeding has been done to stabilize the site and some shrubs have been planted. Mr. Ericksen noted that the area that was disturbed was approximately less than 100 square feet of wetlands and that he has been informed that the material has been removed as it was only there for a short period of time. Mr. Ericksen noted that all of the work was confined to the existing lawn area. The homeowners are requesting the

enforcement order be continued to allow the Commission to monitor the work that has been done.

Mr. Boyd noted that everything Mr. Ericksen said is accurate; the homeowners have been in compliance since the beginning and have stated that they are willing to re vegetate the no disturb zone.

Ms. Linder asked if any cutting occurred and both Mr. Boyd and Mr. Ericksen noted that they did not see any evidence of tree removal. Mr. Dougherty noted that he did not remove any trees. Mr. Boyd noted that there is an area off to the right corner that could potentially be a wetland. Mr. Ericksen explained that he flagged this site approximately one year ago so the flaggings should be accurate. Mr. Boyd suggested this area as a potential location for the plantings as it would delineate the wetland area. Mr. Ericksen suggested Bernstein Markers also be put in place every 50 feet along with the bushes. It was the consensus to plant three bushes and install three Bernstein markers to permanently delineate the area for the future.

Mr. Dougherty asked how long the silt fence should remain in place. Mr. Deackoff suggested it remain until the area is stabilized. Mr. Boyd will work with the homeowner's on this.

Ms. Algaier asked if just Mr. Dougherty can attend the next meeting as they will then have a 1 week old baby. Mr. Ericksen noted that he can likely have the area stabilized prior to the October 8, 2014 meeting and will submit the request for the release once the work has been completed. Mr. Boyd explained that once a written request is received to lift the enforcement order he will put the matter on the agenda for review.

**MOTION: Mr. Deackoff made the motion to continue the Enforcement Order, Erika Algaier, 355 Marston Street, Map 20, Lot 27, three bushes and three Bernstein markers shall be installed on the right hand side of the property, any plantings to the left hand side will be at the discretion of Mr. Boyd; seconded by Ms. Linder and the motion 3-0.**

**I) Enforcement Order, Paul Covell, 370 Kendall Road, Map 79, Lot 73**

Present was Paul Covell of 370 Kendall Road. Mr. Covell provided the members with a copy of a plan of site and explained that the scope of work was to remove and replace the existing yard and repair the existing wall. Everything is existing and no grading was changed; the same footprint applies. Mr. Covell explained that he was replacing the lawn area and walkway.

Mr. Boyd noted that he visited the site with the town engineer as they were driving by and noted that the area is riverfront as there is a waterfall that runs down from Ames Pond. The entire lawn area on the right side; and within 100 feet of the riverfront, the top grass layer was off and there was loose soil. There was also three mounds of fill. Mr. Boyd requested Mr. Covell install a silt fence immediately. Mr. Covell noted that the silt fence was installed the same day.

Mr. Covell explained that the entire scope of work is to remove and replace the existing lawn and walkway, and there will be much more plantings. Mr. Boyd requested that in the future Mr. Covell come to the Commission prior to doing work such as this.

Mr. Covell explained that some years ago the town took some of his land by eminent domain and redid his driveway in the process. When the driveway was graded, the contractor for the town pitched the driveway towards the stream and it has created a downward slope. Mr. Covell explained that he would like to bring this area back up to level it. Discussion took place on whether the ditch is the result of erosion. Mr. Covell noted that prior to that his driveway was flat. Mr. Boyd explained that this work would require a notice of intent filing.

Mr. Deackoff suggested continuing the matter to October 8, 2014. If Mr. Covell completes the work prior to this time, he will contact Mr. Boyd.

**MOTION: Mr. Sheehan made the motion to continue the Enforcement Order Paul Covell, 370 Kendall Road, Map 79, Lot 73 to October 8, 2014 at 7:09 p.m.; seconded by Ms. Linder and the motion carried 3 0.**

**J) Request for Determination of Applicability, Marguerite Snow, 1192 South Street, Map 109, Lot 55**

Present was Marguerite Snow of 1192 South Street. Ms. Snow explained that they would like to hook up to town sewerage and there is an existing bordering vegetated wetland.

Mr. Boyd noted that this is a matter of formalities as they are close to the wetlands.

**MOTION: Mr. Sheehan made the motion for a negative determination, Marguerite Snow, 1192 South Street, Map 109, Lot 55; standard order of conditions; seconded by Ms. Linder and the motion carried 3-0.**

**K) Request for Determination of Applicability, Jay Bonugli, 640 South Street, Map 97, Lot 129**

Present was Jay Bonguli of 640 South Street. Mr. Bonugli explained that his intention is to install a two inch high pressure line in the front of the street.

Mr. Boyd noted that this is also a matter of formalities.

**MOTION: Mr. Sheehan made the motion for a negative determination, Jay Bonugli, 640 South Street, Map 97, Lot 129, standard Order of Conditions; seconded by Ms. Linder and the motion carried 3-0.**

**L) Request for Certificate of Compliance, Michael Welch, 418 Pleasant Street, Map 32, Lot 49**

The applicant was not present. Mr. Deackoff requested the current homeowner, Patrick Walsh, come forward. Mr. Walsh noted that he is the homeowner and Michael Welch is the builder. Mr. Walsh explained that he is proposing to install a pool and he was unaware that there were buffer zones. Mr. Walsh noted that he has moved the pool outside of the 25 foot no disturb, but it is within the 50 foot no build.

Mr. Boyd explained that the Certificate of Compliance must be issued prior to the Request for Determination being addressed. Mr. Boyd noted that he is in receipt of correspondence from LGR Engineering and there are a couple of items that appear to have been done differently than what was originally presented to the Commission. Discussion took place on the driveway and the chain link fence that is along the buffer zone. Mr. Walsh explained that there was an existing fence that ran through the stream which had fallen down into the stream, and he had removed it. Mr. Walsh then reinstalled a fence further in; however, it is still within the no disturb zone as he was not aware there was a no disturb zone.

Mr. Boyd noted that Mr. Walsh is not at fault for these issues. Mr. Walsh noted that had he known of the wetlands and other issues, it is likely they would not have purchased the home.

**MOTION:** Mr. Sheehan made the motion to issue a Certificate of Compliance, Michael Welch, 418 Pleasant Street, Map 32, Lot 49; seconded by Ms. Linder and the motion carried 3-0.

**M) (Continued) Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49**

Present was Patrick Walsh of 418 Pleasant Street. Mr. Walsh explained again that he would like to install an above ground pool. Additional information can be found under Item L. Mr. Deackoff asked if there will be a concrete apron and Mr. Walsh stated that there will not be.

**MOTION:** Mr. Sheehan made the motion for a negative determination, standard order of conditions, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49; seconded by Ms. Linder and the motion carried 3-0.

**M) Request for Certificate of Compliance, 1073 Shawsheen Street, Map 100, Lot 86**

This matter will be continued to August 13, 2014 at 7:06 p.m.

**MOTION:** Mr. Sheehan made the motion to continue Request for Certificate of Compliance, 1073 Shawsheen Street, Map 100, Lot 86 to August 13, 2014 at 7:06 p.m.; seconded by Ms. Linder and the motion carried 3-0.

**N) Request for Certificate of Compliance, 50 Apple Hill Drive, Map 38, Lot 2, DEP #305 0957**

Present was Paul Finger of Paul Finger Associates and Dan Thompson of Raytheon. Mr. Finger explained that this was a pedestrian bridge that was constructed above a channel at the Raytheon facility. Mr. Finger noted that they have also submitted photographs of the area to the Commission.

**MOTION: Mr. Sheehan made the motion to issue a Certificate of Compliance for 50 Apple Hill Drive, Map 38, Lot 2, DEP #305-0957; seconded by Ms. Linder and the motion carried 3-0.**

**New Business**

There was no new business.

**Old Business**

There was no old business.

**Administrator's Report**

Mr. Boyd thanked Mr. Sheehan for donating his services for the removal of the home at 2000 Whipple Road. Mr. Boyd explained that approximately \$3,500.00 was appropriated for dumpsters and the cost was actually \$4,000.00. As a result, Mr. Boyd is requesting an additional \$500.00 from the Conservation Fund for this purpose.

Mr. Sheehan noted that while in the process of razing the home, some of the neighbors come over and thanked him as it had become such an eye sore for the neighborhood.

Mr. Deackoff explained that there are CPA funds available to help with this project. Discussion took place on the safety issues at this location due to the sharp corner and high speed of the traffic.

**MOTION: Ms. Linder made the motion to appropriate an additional \$500.00 from the Conservation Fund for the purpose of dumpsters for 2000 Whipple Road; seconded by Mr. Deackoff and the motion carried 3-0.**

**Adjourn.**

**MOTION: Mr. Sheehan made the motion to adjourn; seconded by Ms. Linder and the motion carried 3-0.**

***Approved: 8/13/14***

*List of documents for 7/23/14 Agenda*  
*Documents can be located at the Community Development Office*

Approval of Meeting Minutes dated July 18, 2014

- 7:02 P.M. (Continued) **Notice of Intent**, Steve Cox, 1 Radcliff Road, Map 52 Lot 25, DEP # 305-966
- *Continuance request dated 8/6/14*
- 7:05 P.M. **Enforcement Order**, Atillio Dispersio Jr. , 1275 Shawsheen Street, Map 101 Lot 76
- *Email from Robin Dipersio dated 7/16/14*
  - *Enforcement Order dated 4/16/14*
- 7:07 P.M. **Enforcement Order**, Villa Sandra Cardenas, 394 Whipple Road, Map 20 Lot 4
- *Enforcement Order dated 5/5/14*
  - *Letter from Steve Erickson dated July 10, 2014*
  - *Wetland Location Plan dated July 1, 2014*
- 7:09 P.M. **Enforcement Order**, Robert Kowalchik, 2532 Main Street, Map 94 Lot 66
- *Field photos taken at 2532 Main Street dated 5/5/14*
  - *Enforcement Order dated 5/14/14*
- 7:11 P.M. **Request for Determination** (Continued), Patrick Walsh, 418 Pleasant Street, Map 32 Lot 49
- *WPA Form 1 Request for Determination of Applicability*
  - *Proposed Plot Plan dated March 7, 2013*
- 7:13 P.M. **Request for Determination**, Kellie Mixon, 9 Marie Street, Map 57 Lot 103
- *WPA Form 1 Request for Determination of Applicability*
- 7:15 P.M. **Enforcement Order**, Donald McLaren, 434 Main Street, Map 22 Lot 69
- *Enforcement Order*
- 7:17 P.M. **Enforcement Order**, Erika Algaier, 355 Marston Street, Map 20 Lot 27
- *Enforcement Order*
- 7:19 P.M. **Enforcement Order**, Paul Covel, 370 Kendall Rd, Map 79 Lot 73
- *Enforcement Order*
- 7:21 P.M. **Request for Determination of Applicability**, Marquerite Snow, 1192 South Street, Map 109 Lot 55
- *WPA Form 1 Request for Determination of Applicability*
- 7:23 P.M. **Request for Determination of Applicability**, Jay Bonugli, 640 South Street, Map 97 Lot 129
- *WPA Form 1 Request for Determination of Applicability*
- 7:25 P.M. **Request for Certificate of Compliance**, Michael Welch, 419 Pleasant Street, Map 32 Lot 49
- *WPA Form 8A Request for Certificate of Compliance*
- 7:30 P.M. **Request for Certificate of Compliance**, 1073 Shawsheen Street, Map 100 Lot 86
- *WPA Form 8A Request for Certificate of Compliance*
- 7:35 P.M. **Request for Certificate of Compliance**, 50 Apple Hill Drive, Map 38, Lot 2
- *WPA Form 8A Request for Certificate of Compliance*